IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Bail Appl..No. 4880 of 2007()

CRIME NO.143/2007 OF YEROOR POLICE STATION

PETITIONER/ACCUSED NO.1:

BABY ALEX, AGED 40,
S/O. KUNJUKUNJU, ITTIMOOTTIL PUTHEN VEEDU,
MUNGODU MURI, PATHANAPURAM.

BY ADV. SRI.VARGHESE C.KURIAKOSE

RESPONDENTS: COMPLAINANT & STATE:

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
YEROOR POLICE STATION.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.4880 of 2007

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Dated this the 14th day of August, 2007

ORDER

Second application for anticipatory bail. Earlier application filed by the petitioner for anticipatory bail was dismissed as per order dated 19.6.07 in B.A.No.3666/07. The petitioner has now come forward with this second application for anticipatory bail. What is the change in circumstances? This second application for anticipatory bail can be entertained by this court only if satisfactory change of circumstances is shown to exist. The learned counsel for the petitioner submits that the investigation is almost complete. Investigators are satisfied that the petitioner is not the principal accused. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there is no change in circumstances at all. It is incorrect to say that the investigation is complete. It is not at all correct to say that the Investigators have come to the conclusion that the petitioner is innocent. There are circumstances which point to the complicity of the petitioner.

2. I find merit in the opposition by the learned Public Prosecutor. There are no features suggesting the need for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the learned Magistrate and seek regular bail in the ordinary and normal course.

3. In the result, this petition is dismissed. I may however, hasten to observe that if the petitioner appears before the Investigating Officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE